

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 330 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and Sd/-
MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

Nos. 1 to 5 No

COMMISSIONER OF INCOME-TAX

Versus

KUTCH OIL & ALLIED INDUSTRIES PVT LTD

Appearance:

MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE M.C.PATEL

Date of decision: 24/07/1999

ORAL JUDGEMENT

The following two questions are referred.

1. "Whether, on the facts and in the
circumstances of the case, the Tribunal

was justified in law in holding that the assessee was in industrial company under section 2(8)(c) of the Finance Act, 1974 and entitled to benefit of concessional rate of tax ?"

2 "Whether, the finding of the Tribunal that the activity of the assessee of pulverising Bentonite was an industry within the meaning of section 2(8)(c) of the Finance Act, 1974 and hence the assessee was an industrial company is correct in law sustainable from the material on records ?"

The assessee in the instant case was given benefit earlier of the provision for which reference was made before this Court. The similar questions were raised before the Court as Tribunal took the view in favour of the assessee earlier. The decision reported in the case of Commissioner of Income-tax Vs. M/s. Kutch Oil & Allied Industries (1949) P.Ltd. reported in 163 ITR Pg.237 has answered the questions in favour of the assessee and against the revenue. As the same questions have been answered by the Court earlier, our answer would be the same as already answered. Hence, we answer the questions in affirmative in favour of the assessee and against the revenue. No order as to cost.

m.m.bhatt